

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF PUERTO RICO

3 UNITED STATES OF AMERICA,

4 Plaintiff,

5 v.

6 JESUS NUÑEZ-MILLAN (01),  
7

8 Defendant.

Crim. No. 06-018 (JAF)

9 O R D E R

10 **I.**

11  
12 Defendant, Jesús Núñez-Millán, is charged in a two-count  
13 Indictment with having possessed with intent to distribute in excess  
14 of fifty grams of crack cocaine in violation of 21 U.S.C.  
15 § 841(a)(1).

16 A detention hearing was held on March 23, 2006. The court  
17 received the testimony of a police officer of the Puerto Rico Police  
18 Department, who testified about the Defendant's arrest and his  
19 possession with intent to distribute narcotics. An FBI agent working  
20 for the Violent Gang Activity Unit also testified about the  
21 Defendant's observed activities of large-scale distribution of  
22 narcotics from a Caguas residential address. A third witness,  
23 another Puerto Rico police officer, also testified about the  
24 Defendant's involvement with cocaine and his arrest on January 10,  
25 2006.

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1           On February 27, 2006, Magistrate Judge Delgado-Colón made a bail  
2     finding. The judge determined that there was probable cause to  
3     believe that the Defendant had committed the charged offense, for  
4     which a maximum term of imprisonment of ten years or more is  
5     prescribed by statute, and that the Defendant had not rebutted the  
6     presumption that no condition or combination of conditions would  
7     reasonably assure Defendant's appearance and reassure the safety of  
8     the community. Judge Delgado further found that the Defendant  
9     represented a serious risk of non-appearance and was a serious risk  
10    of endangerment to the safety of other persons or the community.

11           On March 15, 2006, Judge Delgado reconsidered the issue of bail  
12    and entered an order setting conditions of release. On March 16,  
13    2006, the government requested that the issue of bail be  
14    reconsidered, alleging that Defendant poses a serious threat to the  
15    community.

16           It appears that the FBI has been investigating the Defendant's  
17    criminal activities since 2002. The FBI has confirmed what appears  
18    charged in the Indictment - that Defendant Jesús Núñez-Millán is  
19    involved in heroin and cocaine trafficking in a drug distribution  
20    location at the Turabo Heights public housing project, in Caguas,  
21    Puerto Rico. Confidential informants provided information to the  
22    government that Defendant is often armed while working at the drug  
23    distribution point and that he associates with other known narcotics  
24    traffickers. During a surveillance conducted by the FBI on

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1 September 15, 2005, Defendant was observed leaving the drug  
2 distribution area at the Turabo Heights housing project and arriving  
3 at the Villa Nueva Urbanization, in Caguas, Puerto Rico. He was  
4 driving a motorcycle with the license plate covered. Defendant  
5 detected the surveillance and took photographs of the law-enforcement  
6 agents with his camera phone. He has been arrested by police  
7 officers on three separate occasions for possessing illegal  
8 narcotics, the most recent being on January 10, 2006. Previous  
9 arrests and seizures have produced hundreds of decks of heroin.

10 **II.**

11 Considering the amount of narcotics in this case - at least 1.2  
12 kilograms of cocaine, the Defendant is exposed to a maximum term of  
13 imprisonment of forty years and a minimum term of five years. The  
14 Defendant has not rebutted the presumption that one charged with this  
15 serious narcotics offense poses a serious risk to the safety of the  
16 community. See United States v. Jessup, 757 F.2d 378 (1<sup>st</sup> Cir. 1985);  
17 United States v. Moss, 887 F.2d 333, 336.

18 We find that no conditions of release would reasonably assure  
19 the safety of the community or any persons associated with the  
20 prosecution in this case. See United States v. Hawkins, 617 F.2d 59  
21 (5<sup>th</sup> Cir. 1980). We further find that the Defendant has not rebutted  
22 the presumption against bail with some evidence to show that "what is  
23 true in general is not true in [this] particular case." United  
24 States v. Jessup, 757 F.2d at 384.

